

(Proposed new)

## Chapter 26

### Rules for Installment Payment Plans and Other Court Collection Activities

**Rule 26.1 Scope.** The following provisions govern installment payment plans and other collection activities of the judicial branch. These procedures shall apply to all court debt as defined in Iowa Code section 602.8107(1), and provide for the efficient and expeditious collection of court debt.

#### **Rule 26.2 Installment Payment Plans.**

**26.2(1)** A person shall be instructed to pay the court debt with the office of the clerk of court on the date of imposition of the court debt.

**26.2(2)** If a person establishes that he or she does not have the financial means to pay the court\_debt in full on the date it is imposed, the judicial officer may order the person to pay the court\_debt in full within 30 days from the date it is imposed.

**26.2(3)** If a person establishes that he or she does not have the financial means to pay the court debt in full within 30 days from the date it is imposed, the judicial officer may:

*a.* Instruct the person to contact the Centralized Collection Unit (CCU) to request a payment plan; or

*b.* Establish an installment payment plan pursuant to the rules contained in this chapter.

**26.2(4)** If the total amount of court debt due at the time of imposition is \$300 or less, a judicial officer shall not order an installment payment plan.

**26.2(5)** When ordering an installment payment plan, the judicial officer has discretion to require a down payment.

**26.2(6)** Except in cases involving a restitution plan of payment pursuant to Iowa Code sections 907.8 or 910.7, a judicial officer shall:

1       a. Require the first payment to be due no later than 30 days from the date  
2 of imposition;

3       b. Structure the payments to be due once a month;

4       c. Require the payments to be at least \$50 each month; and

5       d. Structure the payment plan so the entire court debt is scheduled to be  
6 satisfied fully within two years or less from the date the court debt is imposed.

7       **26.2(7)** A judicial officer shall not order an installment payment plan for any  
8 court debt that is already deemed delinquent pursuant to Iowa Code section  
9 602.8107(2)(d).

10       **26.2(8)** A judicial officer shall not waive or forgive any installment payments  
11 or continue or extend the due date for any installment payment.

12       **26.2(9)** If a person fails to make an installment payment within 30 days  
13 after the due date, the entire remaining debt shall be deemed delinquent and  
14 the judicial branch will immediately assign the entire remaining debt to the  
15 CCU for additional collection procedures.

16       **26.2(10)** If a person is granted a court-appointed attorney, the person shall  
17 be required to reimburse the state for the total cost of legal assistance provided  
18 to the person. Legal assistance shall include not only the expense of the  
19 public defender or an appointed attorney, but also the expense of transcripts,  
20 witness fees, expenses, and any other goods or services required by law to be  
21 provided to an indigent person entitled to an appointed attorney.

22       a. If the person receiving legal assistance is convicted in a criminal case,  
23 the court shall order the payment of the total costs and fees for legal assistance  
24 as restitution to the extent the person is reasonably able to pay, or the court  
25 shall order the performance of community service in lieu of such payments, in  
26 accordance with Iowa Code chapter 910.

27       b. If the person receiving legal assistance is acquitted in a criminal case or  
28 is a party in a case other than a criminal case, the court shall order payment of  
29 all or a portion of the total costs and fees incurred for legal assistance, to the

1 extent the person is reasonably able to pay, after an inquiry that includes  
2 notice and reasonable opportunity to be heard.

3 c. After the judicial officer makes the determination in 26.2(10) (a) or (b), the  
4 judicial officer shall set forth in the sentencing order the amount the person is  
5 required to pay for legal assistance.

6 **26.2(11)** A judicial officer may modify an existing, non-delinquent  
7 installment payment plan to correct an error or omission regarding the amount  
8 of court debt defendant owes.

9 **26.2(12)** A judicial officer may modify or restructure an existing, non-  
10 delinquent installment payment plan so long as the entire court debt is  
11 scheduled to be satisfied fully within two years from the date the court  
12 originally imposed the court debt and the payments are at least \$50 a month.

13 a. Rule 26.2(12) precludes inclusion of prior installment payment plans of  
14 the same defendant into a single installment payment plan because the prior  
15 plans will not be satisfied within two years from the date the prior fine and  
16 court debt were originally imposed.

17 b. Rule 26.2(12) permits inclusion of multiple new cases for the same  
18 defendant into one installment payment plan because all new cases would be  
19 satisfied within two years from the date the court debt was originally imposed.

20 **26.2(13)** A judicial officer shall not initiate court proceedings sua sponte as  
21 a means of collecting court debt. Once the court debt becomes delinquent 30  
22 days after imposition or 30 days after an installment payment is due, the  
23 statutory procedures set forth in Iowa Code section 602.8107 govern. Show  
24 cause, contempt, or review hearings that are pending on the court calendar,  
25 may proceed.

26  
27 **Rule 26.3 Court Debt Collection Procedures.** Judicial officers shall comply  
28 with the following procedures with regard to court debt, whether or not subject  
29 to an installment payment plan: Except for collection orders, procedures, and  
30 arrangements that are the subject of a petition for judicial review, a judicial  
31 officer shall not block, rescind, waive, modify, void, or stay any installment

1 payment plan or other court debt collection agreement or procedure arranged,  
2 initiated, or enforced by a county attorney pursuant to Iowa Code section  
3 602.8107(4) and Iowa Code section 321.210B, the CCU pursuant to Iowa Code  
4 section 602.8107(3), a county treasurer pursuant to Iowa Code section  
5 321.40(9), the department of transportation pursuant to Iowa Code section  
6 321.210A, the department of revenue pursuant to Iowa Code section 8A.504,  
7 the clerk of court pursuant to Iowa Code section 602.8103(6), or a private  
8 collection agency approved by the state court administrator pursuant to Iowa  
9 Code section 602.8107(5). As used in this paragraph, court debt collection  
10 agreements and procedures include but are not limited to garnishments,  
11 administrative levies, wage assignments, installment payment plans,  
12 executions, income tax offsets, driver's license suspension, vehicle registration  
13 holds, professional licensure suspension, and other procedures authorized by  
14 law.

15  
16 **Rule 26.4 Community Service.** A judicial officer shall not order community  
17 service in lieu of monetary payment of court debt unless the judicial officer  
18 determines that community service will be prudent and effective for defendant  
19 and the community service can be administered within existing court  
20 resources.

21 **26.4(1)** A judicial officer shall not order community service if defendant's  
22 total court debt is \$300 or less.

23 **26.4(2)** When defendant is not reasonably able to pay all or part of  
24 defendant's court debt, community service may be substituted in lieu of the  
25 following: monetary payment for fines; crime victim compensation program  
26 reimbursement; public agency restitution; court costs, including correctional  
27 fees approved pursuant to Iowa Code section 356.7; court-appointed attorney  
28 fees ordered pursuant to Iowa Code section 815.9, including the expense of a  
29 public defender; contribution to a local anticrime organization; or medical  
30 assistance program restitution.

1       **26.4(3)** A judicial officer shall not order community service in lieu of victim  
2 restitution.

3       **26.4(4)** All orders for community service in lieu of monetary payment of  
4 court debt shall require defendant to perform the number of hours of  
5 community service that are equal to the total amount of the court debt divided  
6 by the current minimum State of Iowa wage rate.

7       **26.4(5)** A judicial officer shall order a date by which defendant is to have  
8 completed the community service.

9       **26.4(6)** A judicial officer shall not order community service in lieu of  
10 monetary payment of court debt that is already deemed delinquent pursuant to  
11 Iowa Code section 602.8107(2)(d) because it has not been paid within 30 days  
12 after it was assessed or within 30 days after the payment due date of an  
13 installment payment plan.

14  
15       **Rule 26.5 Supervised Probation.** If the judicial officer orders probation  
16 under Iowa Code chapter 907, defendant is subject to the conditions  
17 established by the judicial district department of correctional services subject  
18 to the approval of the court, including a restitution plan of payment. The  
19 probation plan of payment shall not incorporate any delinquent court debt  
20 obligations of defendant.

21  
22       **Rule 26.6 Form for Installment Payment Plan Order.** A court ordered  
23 installment payment plan shall be in substantially the following form.

**Rule 26.6—Form 1: Installment Payment Plan Order**

In the Iowa District Court for

County

☐ State of Iowa,

☐ City of \_\_\_\_\_,

Plaintiff,

vs.

\_\_\_\_\_,  
Defendant.

No. \_\_\_\_\_

**Installment Payment Plan Order**

(Not to be used for court debt of \$300 or less.)

Upon sentencing, **it is hereby ordered** that Defendant shall pay any and all fines, surcharges, court costs, fees, victim restitution, and attorney fees as ordered in the Defendant's Judgment and Sentence dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Note:** Attorney fees and other costs, if unavailable at the time of sentencing, may be more than the record reflects in the clerk's office. Those amounts will be added to Defendant's total amount of court debt when they become available, and are subject to the same terms as specified below. Sheriff room and board fees, which are not included in the Installment Payment Plan Order, will be charged as a civil judgment for which Defendant is separately responsible.

**Terms of Installment Payment Plan:**

Defendant \_\_\_\_ (is) \_\_\_\_ (is not) required to make a down payment of \$\_\_\_\_\_ to the clerk of court's office.

Defendant shall make a minimum payment of \$\_\_\_\_\_ per month (must be at least \$50) beginning the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (no later than 30 days from the date of imposition), and on the same day of each month thereafter, to the clerk of court office.

The total court debt must be paid within 24 months. The court will not grant any extensions for additional time to pay.

**Failure to Make Installment Payments:**

Defendant is **notified** that if he or she fails to pay any monthly payment on the date and in the amount as listed above, within 30 days of the date the installment payment is due, action regarding Defendant's motor vehicle registration or suspension of Defendant's driver's license, or both, may be initiated. In addition, the total remaining court debt will be considered delinquent and sent to collection, and up to 25% may be added to the delinquent amount.

Order dated: \_\_\_\_\_

\_\_\_\_\_  
Judicial Officer

**Please notify the clerk of court of any change of address.**

**Note:** The State of Iowa procedure to intercept any state income tax refund due to Defendant, the State of Iowa procedure to intercept any vendor amounts due Defendant, or the clerk of court's ability to intercept monetary amounts held by the clerk of court and payable to Defendant are not affected by this installment payment plan.